

A4 11. (New) A portable audio listening apparatus according to claim 1, wherein the second electrode, the demodulating means and the audible sound generating means are incorporated into a headphone.

12. (New) A portable audio listening apparatus according to claim 1, wherein the second electrode is at least one ear pad on the headphone.

#### REMARKS

Claims 1-10 remain in this application. New claims 11 and 12 have been added, claim 9 has been cancelled, and claims 1, 2, 5 and 10 have been amended.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Versions with Markings to Show Changes Made."

Claims 1-4 and 9-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gersheneld et al. Applicants respectfully traverse this rejection because it would not have been obvious to derive the present invention from the cited reference. The cited reference also does not disclose or suggest that the second electrode is attached to the audible sound generating means and that it is configured to fit on or around the user's ear to direct the audible sound into the ear.

The Examiner recognizes that the Gersheneld et al. reference "does not disclose that the system is explicitly for audio listening apparatus." She, however, asserts that since the reference relates "to systems (such as pagers, telephones, computer terminals, and set forth) that can be used for wireless communication among proximate devices," that it would have been obvious to use the system of Gersheneld et al. for the audio listening apparatus as claimed. Applicants respectfully disagree with this assertion. There is no teaching or suggestion in the cited reference that the system of Gersheneld et al. can be used for audio listening apparatus. The fact that the reference specifically lists portable devices such as pagers, telephones, and computer terminals, on the contrary, appears to suggest that the reference did not contemplate the system of Gersheneld et al. being used with an audio listening apparatus. Applicants further suggest that it would be possible to derive the present invention from the teachings of Gersheneld et al. only

through use of hindsight, which is improper. For this reason alone, claims 1, 2 and 10 are allowable over Gersheneld et al.

Moreover, claims 1, 2 and 10 have been amended to further describe that the second electrode is attached to the audio sound generating means and that it is configured to fit on or around the user's ear to direct the audible sound into the ear. Thus, even if it were obvious to adapt the system of Gersheneld et al. for use in an audio listening apparatus, it certainly would not have been obvious to derive the added features of the second electrode as now called for in claims 1, 2 and 10. For this reason also, these claims are allowable over the cited reference. New claims 11-12 and claims 3-8 depend from claims 1 or 2, and are also allowable for the reasons given with respect to their respective independent claims, and because of the additional features recited in claims 3-8 and 11-12.

Claims 5-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gersheneld et al. in view of Nakagawa. Claims 5-8 depend from claim 2 and are allowable for the same reasons given with respect to claim 2, from which these claims depend, and because of the additional features recited in these claims.

In light of the above, Applicants respectfully submit that claims 1-8 and 10 are now in condition for allowance, which is respectfully requested.

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims:**

1. (Amended) A portable audio listening apparatus comprising:  
means for generating an audio modulated signal modulated in a band in which a signal is transferred by using a human body of a user;  
a first electrode for outputting the generated audio modulated signal;  
a second electrode for receiving an audio modulated signal transferred through the first electrode and ~~a human~~ the body of the user;  
means for demodulating the audio modulated signal received by the second electrode;  
and  
means for generating audible sound according to the demodulated signal;  
wherein said second electrode is attached to the audible sound generating means and configured to fit on or around the user's at least one ear to direct the audible sound into the user's at least one ear.

2. (Amended) A portable audio listening apparatus comprising:  
a portable transmission apparatus and a portable receiving apparatus electrically and mechanically structured as different units,  
the portable transmission apparatus comprising:  
means for generating an audio modulated signal modulated in a band in which a signal is transferred by using a human body of a user; and  
a first electrode for outputting the generated audio modulated signal, and the portable receiving apparatus comprising:  
a second electrode for receiving an audio modulated signal transferred through the first electrode and ~~a human~~ the body of the user;  
means for demodulating the audio modulated signal received by the second electrode;  
and  
means for generating audible sound according to the demodulated signal;

wherein said second electrode is attached to the audible sound generating means and configured to fit on or around the user's at least one ear to direct the audible sound into the user's at least one ear.

5. (Amended) A portable audio listening apparatus according to one of claims ~~1~~2 to 3, wherein the transmission apparatus further comprises playback means for playing back an audio signal to be modulated and control means for controlling the playback means.

9. (Cancelled)

10. (Amended) A portable receiving apparatus comprising:  
an electrode for receiving an audio modulated signal transferred through a human body of a user;

means for demodulating the audio modulated signal received by the electrode; and

means for generating audible sound according to the demodulated signal;

wherein the second electrode is attached to the audible sound generating means and configured to fit on or around the user's at least one ear to direct the audible sound into the user's at least one ear.

11. (New) A portable audio listening apparatus according to claim 1, wherein the second electrode, the demodulating means and the audible sound generating means are incorporated into a headphone.

12. (New) A portable audio listening apparatus according to claim 11, wherein the second electrode is at least one ear pad on the headphone.